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Board of Vocational Nursing  
and Psychiatric Technicians

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BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. VN-2009-1932

**BRUCE ALLEN MCCAIN**  
26949 Hillsborough Parkway, #44  
Valencia, CA 91354

**A C C U S A T I O N**

Vocational Nurse License No. VN 204352

Respondent.

Complainant alleges:

**PARTIES**

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about May 21, 2003, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 204352 to Bruce Allen McCain (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2013, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2875 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board of Vocational Nursing and Psychiatric Technicians ("Board") may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

5. Section 2878 of the Code states:

"The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

. . .

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter.

. . .

"(j) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee.

6. Section 2878.5 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish or administer to another, any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a

1 manner dangerous or injurious to himself or herself, any other person, or the public, or to the  
2 extent that the use impairs his or her ability to conduct with safety to the public the practice  
3 authorized by his or her license.

4 . . .

5 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any  
6 hospital, patient, or other record pertaining to narcotics or dangerous drugs as specified in  
7 subdivision (b)."

8 7. Health and Safety Code Section 11170 provides:

9 "No person shall prescribe, administer, or furnish a controlled substance for himself."

10 8. Health and Safety Code Section 11171 provides that no person shall prescribe,  
11 administer, or furnish a controlled substance, except under the conditions and in the manner set  
12 forth in the Uniform Controlled Substance Act (setting forth requirements for prescription and  
13 furnishing of narcotics).

14 9. Health and Safety Code Section 11173 provides at subdivision(a) :

15 "No person shall obtain or attempt to obtain controlled substances, or procure or attempt  
16 to procure the administration of or prescription for controlled substances, (1) by fraud, deceit,  
17 misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

18 10. Health and Safety Code Section 11173 provides:

19 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or  
20 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,  
21 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

22 (b) No person shall make a false statement in any prescription, order, report, or record,  
23 required by this division.

24 (c) No person shall, for the purpose of obtaining controlled substances, falsely assume  
25 the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist,  
26 veterinarian, registered nurse, physician's assistant, or other authorized person.

27 (d) No person shall affix any false or forged label to a package or receptacle containing  
28 controlled substances."

11. Health and Safety Code Section 11350, subdivision (a) makes it a crime in this state to possess any controlled substance, unless upon the written prescription of a physician or other authorized prescriber.

12. Title 16, California Code of Regulations, section 2518.6 (Performance Standards) provides as follows:

(a) A licensed vocational nurse shall safeguard patients'/clients' health and safety by actions that include but are not limited to the following:

(1) Reporting to the Board acts specified in Sections 2878 and 2878.5 of the Business and Professions Code;

(2) Documenting patient/client care in accordance with standards of the profession; and

(3) Performing services in accordance with Section 125.6 of the Business and Professions Code.

(b) A licensed vocational nurse shall adhere to standards of the profession and shall incorporate ethical and behavioral standards of professional practice which include but are not limited to the following:

(1) Maintaining current knowledge and skills for safe and competent practice;

(2) Maintaining patient/client confidentiality;

(3) Maintaining professional boundaries with the patient/client;

(4) Abstaining from chemical/substance abuse; and

(5) Cooperating with the Board during investigations as required by Section 2878.1 of the Business and Professions Code.

## COST RECOVERY

13. Section 125.3 states, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## DEFINITIONS

14. **Vicodin** – is a Schedule III controlled substance pursuant to Health and Safety Code Section 11056(e)(5) and is a dangerous drug within the meaning of Business and Professions Code section 4211, subdivision (a). Vicodin is a brand name for the narcotic hydrocodone bitartrate or dihydrocodeinone combined with the non-narcotic acetaminophen. It is used for the relief of severe pain.

15. **Norco** - is the brand name for a pain medication combining narcotic Hydrocodone with non-narcotic acetaminophen and is classified as a Schedule III narcotic substance pursuant to Health and Safety Code section 115056 (e)(4) and a dangerous drug pursuant to Business and Professions Code section 4022.

16. **Pyxis System** - The Pyxis System is a computerized automated medication dispensing system, which operates similarly to an Automated Teller Machine (ATM) at a bank.

The Pyxis medication dispensing machines are serviced by the facility's pharmacy. Medications are placed in the Pyxis machines, which are usually stationed throughout the hospital. These medications can only be accessed, or withdrawn by an authorized staff person using their own unique personalized access code. Each medical professional at the hospital is assigned an account number and a "one time only" access code number. The access code number allows the individual to access the Pyxis System only one time. Upon making this initial access, the Pyxis System prompts the individual to enter his or her own unique access number or PIN code. The Pyxis System will not permit the use of a PIN code that has been used by any former employee, or is being used by any other current employee. After entering their own unique PIN code and each time the Pyxis System is accessed using that PIN code, the person making access is identified and a database record of the transaction is made; which is similar to the ATM withdrawal of funds from a bank account. The Pyxis System specifically records the following:

1) The identities of medical personnel, who have accessed the identified medications.

2) The identities of the patients that the medications were allegedly withdrawn on behalf of and administered to.

3) The date/time the medications were withdrawn by the identified employee.

The Pyxis System in response to the employee's drug withdrawals then updates the hospital's pharmacy inventory for each particular medication withdrawn. The Pyxis System records the time and date of access, and is able to provide a record of the drugs being accessed by the employee via the patient's name, the patient's ID number; the identity of the medical facility's employee making access; the name and quantity of the drug accessed; and location of the particular Pyxis unit accessed.

### **CAUSES FOR DISCIPLINE**

17. The following allegations are common to all causes for discipline herein:

a. Between approximately June and November of 2009, and at all times relevant herein, Respondent was employed as a licensed vocational nurse in the Medical/Surgical 3 Unit of Henry Mayo Newhall Memorial Hospital ("Henry Mayo") in the city of Valencia, CA.

b. On or about November 16, 2009, Respondent self-reported to the Board that he had resigned (after suspension) from his nursing position at Henry Mayo on November 10, 2009 - after his diversion of drugs from the workplace over the preceding two week period had been discovered. In that report, Respondent admitted he had stolen and self-administered pain medication due to "chronic knee pain" - but denied that he had ingested the medication while at work.

c. On at least seventeen (17) instances, Respondent removed Hydrocodone from the Pyxis system in the name of a single patient, John Doe - who had been admitted to the unit where Respondent worked on October 17, 2009. Respondent continued to remove the drug from the system in John Doe's name *after the patient was transferred* to another floor, *and* after he was discharged from the hospital.

d. Hospital medication records show that Respondent diverted at least 17 tablets from the Pyxis system, using the patient's name, as follows:

PHYSICIAN'S ORDER RECORDS	ACTIVITY REPORT	MEDICATION ADMINISTRATION REPORT
10/17/09 Hydrocodone/Acet	10/19/09 1 Norco tablet	10/19/09 No Record of tablet of Norco

10/325 Tablet Hydrocodone/Acet 5/500 DOSE: PO every 4 hrs as needed for pain	Withdrawn by McCain at 10:08 hrs	administered to patient or wasted
10/17/09 Hydrocodone/Acet 10/325 Tablet Hydrocodone/Acet 5/500 DOSE: PO every 4 hrs as needed for pain	10/19/09 1 Norco tablet Withdrawn by McCain at 11:50 hrs	10/19/09 No record of tablet of Norco administered to patient or wasted
10/17/09 Hydrocodone/Acet 10/325 Tablet Hydrocodone/Acet 5/500 DOSE: PO every 4 hrs as needed for pain	10/19/09 1 Norco tablet Withdrawn by McCain at 16:29 hrs	10/19/09 No record of tablet of Norco administered to patient or wasted

Patient Transferred to Another Unit on 10/19/09 at 1920

<b>PHYSICIAN'S ORDER RECORDS</b>	<b>ACTIVITY REPORT</b>	<b>MEDICATION ADMINISTRATION REPORT</b>
10/17/09 Hydrocodone/Acet 10/325 Tablet Hydrocodone/Acet 5/500 DOSE: PO every 4 hrs As needed for pain	10/24/09 1 Norco tablet Withdrawn by McCain at 10:22 hrs	10/24/09 No record of tablet of Norco administered to patient or wasted
10/17/09 Hydrocodone/Acet 10/325 Tablet Hydrocodone/Acet 5/500 DOSE: PO every 4 hrs as needed for pain	10/24/09 1 Norco tablet Withdrawn by McCain at 13:04 hrs	10/24/09 No record of tablet of Norco administered to patient or wasted
10/17/09 Hydrocodone/Acet 10/325 Tablet Hydrocodone/Acet 5/500 DOSE: PO every 4 hrs as needed for pain	10/24/09 1 Norco tablet Withdrawn by McCain at 17:48 hrs	10/25/09 No record of tablet of Norco administered to patient or wasted
10/17/09 Hydrocodone/Acet	10/25/09 1 Norco tablet	10/25/09 No record of tablet of Norco

10/325 Tablet Hydrocodone/Acet 5/500 DOSE: PO every 4 hrs as needed for pain	Withdrawn by McCain at 8:01 hrs	administered to patient or wasted
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Patient Discharged from Hospital on 10/25/09 at 9:14 hrs.

PHYSICIAN'S ORDER RECORDS	ACTIVITY REPORT	MEDICATION ADMINISTRATION REPORT
10/17/09 Hydrocodone/Acet 10/325 Tablet Hydrocodone/Acet 5/500 DOSE: PO every 4 hrs as needed for pain	10/25/09 1 Norco tablet Withdrawn by McCain at 13:13 hrs	10/25/09 No record of tablet of Norco administered to patient or wasted
10/17/09 Hydrocodone/Acet 10/325 Tablet Hydrocodone/Acet 5/500 DOSE: PO every 4 hrs as needed for pain	10/25/09 1 Norco tablet Withdrawn by McCain at 16:21 hrs	10/25/09 No record of tablet of Norco administered to patient or wasted
10/17/09 Hydrocodone/Acet 10/325 Tablet Hydrocodone/Acet 5/500 DOSE: PO every 4 hrs as needed for pain	11/04/09 1 Norco tablet Withdrawn by McCain at 11:44 hrs	11/04/09 No record of tablet of Norco administered to patient or wasted
10/17/09 Hydrocodone/Acet 10/325 Tablet Hydrocodone/Acet 5/500 DOSE: PO every 4 hrs as needed for pain	11/04/09 1 Norco tablet Withdrawn by McCain at 15:51 hrs	11/04/09 No record of tablet of Norco administered to patient or wasted
10/17/09 Hydrocodone/Acet 10/325 Tablet Hydrocodone/Acet 5/500 DOSE: PO every 4 hrs as needed for pain	11/04/09 1 Norco tablet Withdrawn by McCain at 16:56 hrs	11/04/09 No record of tablet of Norco administered to patient or wasted
10/17/09 Hydrocodone/Acet	11/04/09 1 Norco Tablet	11/04/09 No record of tablet of Norco



1 2 3	10/325 Tablet Hydrocodone/Acet 5/500 DOSE: PO every 4 hrs as needed for pain	Withdrawn by McCain at 20:08 hrs	administered to patient or wasted.
4 5 6 7	10/17/09 Hydrocodone/Acet 10/325 Tablet Hydrocodone/Acet 5/500 DOSE: PO every 4 hrs as needed for pain	11/05/09 1 Norco tablet Withdrawn by McCain at 07:40 hrs	11/05/09 No record of tablet of Norco administered to patient or wasted.
8 9 10 11	10/17/09 Hydrocodone/Acet 10/325 Tablet Hydrocodone/Acet 5/500 DOSE: PO every 4 hrs as needed for pain	11/05/09 1 Norco tablet Withdrawn by McCain at 12:21 hrs	11/05/09 No record of tablet of Norco administered to patient or wasted.
12 13 14 15	10/17/09 Hydrocodone/Acet 10/325 Tablet Hydrocodone/Acet 5/500 DOSE: PO every 4 hrs as needed for pain	11/07/09 1 Norco tablet Withdrawn by McCain at 13:45 hrs	11/07/09 No record of tablet of Norco administered to patient or wasted.
16 17 18 19	10/17/09 Hydrocodone/Acet 10/325 Tablet Hydrocodone/Acet 5/500 DOSE: PO every 4 hrs as needed for pain	11/07/09 1 Norco tablet Withdrawn by McCain at 19:09 hrs	11/07/09 No record of tablet of Norco administered to patient or wasted.

### **FIRST CAUSE FOR DISCIPLINE**

(Obtaining or Possessing Controlled Substances by Use of Fraud and Deceit)

18. Respondent is subject to disciplinary action under section 2878 subsection (a) on the grounds of unprofessional conduct as defined in section 2878.5 subsection (a) for violating Health and Safety Code sections 11350 (a), 11173(a) and 11173(b), in that approximately between October 17, 2009 and November 10, 2009, while employed and on duty as a nurse at Henry Mayo Hospital, Respondent obtained and possessed controlled substances by means of fraud, deceit,

1 misrepresentation and/or subterfuge, by use of the hospital's Pyxis system to divert pain  
2 medication on at least 17 instances, as described more fully in paragraph 17 above.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Commission of Substantially Related Dishonest Acts)

5 19. Respondent is subject to disciplinary action under section 2878, subdivision (a) on the  
6 grounds of unprofessional conduct for violating sections 2878 subdivision (d) and subdivision (j)  
7 in that as defined in section 2878.5, subdivisions (a) and (b) in that approximately between  
8 October 17, 2009 and November 10, 2009, while employed and on duty as a nurse at Henry Mayo  
9 Hospital, Respondent committed dishonest acts in at least 17 instances, in order to obtain pain  
10 medication for self administrations, as described more fully in paragraph 17 above.

11 **THIRD CAUSE FOR DISCIPLINE**

12 (Self-Administration of Controlled Substances)

13 20. Respondent is subject to disciplinary action under section 2878 subsection (a) on the  
14 grounds of unprofessional conduct as defined in section 2878.5 subsection (a) for violating Health  
15 and Safety Code sections 11350 (a), 11171 in that approximately between October 17, 2009 and  
16 November 10, 2009, while employed and on duty as a nurse at Henry Mayo Hospital, Respondent  
17 obtained and self-administered controlled substances without a prescription as described more  
18 fully in paragraph 17 above.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 (Falsified Hospital Records)

21 21. Respondent is subject to disciplinary action under section 2878, subdivision (a) on the  
22 grounds of unprofessional conduct for violating sections 2878.5 subdivision (e) and Health and  
23 Safety code sections 11350 subdivision (a) and 11173 subdivision (a) in that approximately  
24 between October 17, 2009 and November 10, 2009, while employed and on duty as a nurse at  
25 Henry Mayo Hospital, Respondent made false, grossly incorrect or grossly inconsistent entries in  
26 hospital records pertaining to medications obtained from Pyxis as related to patient John Doe in  
27 order to conceal his diversion of pain medication on at least 17 instances, as described more fully  
28 in paragraph 17 above.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 (Breach Of Professional Standards: Failure To Document)

3 22. Respondent is subject to disciplinary action under section 2878, subdivision (a) on the  
4 grounds of unprofessional conduct for violating Title 16, California Code of Regulations, section  
5 2518.6, subdivision (a)(2) in that approximately between October 17, 2009 and November 10,  
6 2009, while employed and on duty as a nurse at Henry Mayo Hospital, Respondent failed to  
7 safeguard the health of his patients in that he failed to document patient/client care in accordance  
8 with standards of the profession, as described more fully in paragraphs 17 and 21 above.

9 **SIXTH CAUSE FOR DISCIPLINE**

10 (Breach of Professional Standards: Failure To Abstain From Substance Abuse)

11 23. Respondent is subject to disciplinary action under section 2878, subdivision (a) on  
12 the grounds of unprofessional conduct for violating Title 16, California Code of Regulations,  
13 section 2518.6 subdivision (b)(4) in that approximately between October 17, 2009 and November  
14 10, 2009, Respondent failed to adhere to standards of the profession, and failed to incorporate  
15 ethical and behavioral standards of professional practice by his failure to abstain from  
16 chemical/substance abuse, as described more fully in paragraph 17 above.

17 **DISCIPLINARY CONSIDERATIONS**

18 24. To determine the degree of discipline, if any, to be imposed on Respondent,  
19 Complainant alleges:

20 a. **Letter of Warning**

21 On or about May 7, 2003, the Board issued its letter of warning regarding criminal  
22 convictions prior to licensure. The Board opted not to pursue discipline against Respondent at that  
23 time, but advised that "As a licensed vocational nurse you are responsible for being honest and  
24 ethical. Future substantiated reports that you have engaged in similar behavior or otherwise  
25 violated the law or regulations governing your practice as a vocational nurse may result in  
26 disciplinary action against your license."

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1           b.       **Prior Conviction Involving Substance Abuse**

2           (1)     On February 8, 1991, in the Superior Court, San Luis Obispo County, Grover  
3 Beach Branch, California, in the matter entitled *People vs. Bruce Allen McCain*, Case No.  
4 M000166535, Respondent was convicted by the court following his plea of no contest to a  
5 violation of Vehicle Code section 23152, subdivision (a) (driving under the influence of alcohol;  
6 blood alcohol content exceeding .20% of higher).

7           (2)     The circumstances of the conviction are as follows:  
8 On or about November 18, 1990, after receiving a report of a hit and run accident involving a rust  
9 colored vehicle striking parked cars, Arroyo Grande Police Department officers responded to a tip  
10 that the driver of the rust colored vehicle was at a local bar. Officers found Respondent sitting on  
11 a bar stool bleeding from minor injuries on the upper right side of his face. When interviewed,  
12 Respondent identified himself, and stated that he had been drinking at the bar, left to drive home,  
13 found that "things got wild" (i.e. that he "may have lost control of the car"), so he returned to the  
14 bar. Respondent stated the he'd injured his head while driving by "striking the windshield" – but  
15 told officers that "I did not hit anything". Officers noted in their report of the incident that  
16 Respondent's rust colored vehicle had a shattered windshield and major left front side damage.  
17 Respondent agreed to a breath test. Results of the test showed a .21/22% blood alcohol content.

18                               **PRAYER**

19           WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
20 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians  
21 issue a decision:

22           1.       Revoking or suspending Vocational Nurse License Number VN 204352, issued to  
23 Bruce Allen McCain;

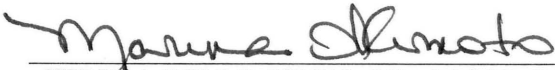
24           2.       Ordering Bruce Allen McCain to pay the Board of Vocational Nursing and  
25 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,  
26 pursuant to Business and Professions Code section 125.3;

27       ///

28       ///

3. Taking such other and further action as deemed necessary and proper.

DATED: July 25, 2011

  
for

TERESA BELLO-JONES, J.D., M.S.N., R.N.

Executive Officer

Board of Vocational Nursing and Psychiatric Technicians

Department of Consumer Affairs

State of California

*Complainant*

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